

## Chapter 12.25 SPECIAL EVENTS AND PARADES

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### **12.25.010 Applicability – Permit required for special events.**

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- (a) This chapter regulates special events as defined herein. No person shall conduct any special event without first obtaining a permit as provided in this chapter.
- (b) Issuance of a permit under this chapter does not exempt the permittee from, or constitute compliance with:
  - (1) Local, state or federal laws regulating service or consumption of food or alcoholic beverages, the erection of temporary structures, the erection of amusement rides, or obtaining additional permits prescribed by law;
  - (2) Any other applicable local, state or federal law.
- (c) This chapter does not apply to:
  - (1) Events on city owned property that are authorized pursuant to any lease to which the city is a party or by a license or permit issued by the city under any other authority, to the extent the application of this chapter would be inconsistent with such leases or licenses;
  - (2) Any event held solely within a city public park, community center or senior center, meaning that no organized portion of the event is scheduled for or intended to occur inside of the boundaries of a public park, or within a city community center or senior center. For purposes of this chapter, “public park” has the meaning ascribed to that term in the city’s master plan for parks. This

exception from this chapter shall not apply to city plazas (i.e., Niles Town Plaza, Bill Ball Plaza, etc.). (Ord. 2-2013 § 1, 1-15-13. 1990 Code § 3-7100.)

#### **12.25.020 Definitions.**

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- (a) “Applicant” shall mean any person or organization seeking a special event permit from the city to conduct or sponsor a special event as defined herein.
- (b) “City manager” shall mean the city manager of the city or any designee of the city manager, except as otherwise specifically defined herein.
- (c) “Days” shall mean calendar days unless otherwise specified.
- (d) “Permittee” shall mean any person or organization to whom the city has issued a special event permit.
- (e) “Person” shall have the meaning set forth at Section 1.10.180, as amended.
- (f) “Professional event organizer” shall mean persons with a history of successfully organizing special events as characterized by, but not limited to, the following:
  - (1) Membership in an organization such as the International Festivals and Events Association (“IFEA”);
  - (2) Recognized as a “Certified Festival Executive” by the IFEA;
  - (3) No less than three years’ experience professionally organizing special events;
  - (4) References of three events equal in size and nature to the proposed special event organized by the person within the last 24 months;
  - (5) Authorized to conduct business in the state of California.
- (g) “Special event” shall mean any activity on public or private property that, due to the anticipated amount of attendees or the nature of the event, is not compatible with the generally intended use of the property for which it is proposed and is characterized by any of the following:
  - (1) Requires city services to ensure compliance with state or local laws; for example, temporary ABC licenses, or temporary structure permits;
  - (2) Involves use of city owned or managed property such as public streets, sidewalks, parking lots, plazas or other city owned or managed open spaces;
  - (3) Involves closure, or partial closure, of any public right-of-way, or requires traffic control procedures necessitating the involvement of police or street maintenance personnel;

(4) Impairs emergency vehicle access or requires the attendance of emergency personnel at the event; or

(5) Results in impacts to adjacent public or private property because of, for example, the use of live or amplified entertainment or the anticipated impacts on parking. Uses that are already permitted under the zoning ordinance, such as nightclubs, banquet facilities and assembly halls, are not included in the definition of special event, unless the impact of an event is greater than the impact anticipated under the permitted zoning.

(h) “Class I special event permit” shall mean a permit authorizing the permittee to conduct a special event for no more than two consecutive days in duration, occurs only one time in a calendar year, anticipates attendance of less than 500 people, and does not require the use of city services.

(i) “Class II special event permit” shall mean the permit issued by the city authorizing the permittee to conduct a special event for no more than two consecutive days in duration, occurs only one time in a calendar year, anticipates attendance of less than 500 people and requires the use of city services.

(j) “Class III special event permit” shall mean a permit authorizing the permittee to conduct a special event that lasts no more than two consecutive days, occurs only one time in a calendar year, anticipates attendance of 500 people or more, and does not require the use of city services.

(k) “Class IV special event permit” shall mean a permit authorizing the permittee to conduct a special event that lasts no more than two consecutive days, occurs only one time in a calendar year, anticipates attendance of 500 people or more, and requires the use of city services.

(l) “Class V special event permit” shall mean a permit authorizing the permittee to conduct a special event for more than two days in duration, and/or occurs more than one time in a calendar year. (Ord. 2-2013 § 1, 1-15-13. 1990 Code § 3-7101.)

#### **12.25.030 Special event permit – Application – Information required – Timing.**

(a) An application for any class of a special event permit shall be made at least 90 days prior to the special event. The city manager or designee may authorize an application for a Class I and II special event permit 30 days prior to the special event if the event does not require closure of a public right-of-way, will not require the diversion of regularly assigned public safety personnel, and does not negatively impact emergency access, parking or traffic in the surrounding area.

(b) A preliminary analysis of an application for a special event permit will be provided to the applicant within 10 working days following the submittal of a completed application for those applications submitted 90 days prior to the special event.

(c) The application for a special event permit shall be made in writing on a form approved and provided by the city. In order that adequate arrangements may be made for proper regulation of the

special event, the application shall contain the following information, as applicable:

- (1) The name, address and telephone number of the applicant(s). If the special event will be conducted for, on behalf of, or by an organization(s), the name, address, telephone number of the authorized head of such organization and the names and addresses of the executive officers of such organization;
- (2) The location of the special event that will be conducted by, for or on behalf of an applicant(s); and
- (3) The name, address, telephone number and signature of the property owner(s) on whose property the event will be conducted, unless the property is owned by the city;
- (4) The name, address and telephone number of all persons who are or will be responsible for the promotion and conduct of the special event, including a photo identification of each and effective means by which to reach them during the event, such as cell phone and pager numbers, and likely location of each responsible person during the special event;
- (5) A description of the special event, including its purpose and, as far as is reasonably practicable, the number of people expected to attend. These requirements are intended to allow the city to anticipate and provide for additional city services, if necessary, to protect the safety of participants and bystanders;
- (6) The date(s) of the event, including assembly and disassembly involving the use of public property;
- (7) The estimated times that the special event will start and terminate, including assembly and disassembly involving the use of public property;
- (8) For special events occurring in the public right-of-way, the locations of the assembly and dispersal areas, the maximum length of the use of the public right-of-way at any given time, and whether the special event will occupy all or only a portion of the public rights-of-way proposed to be traveled upon;
- (9) The number and kind of vehicles, animals, tents, structures, stages, musical instruments, sound units, and any other equipment, including equipment that produces sound or noise during the special event and whether amplified sound is proposed to be used. In the event the applicant seeks a temporary food permit, a temporary liquor license or a temporary structure permit, the application should be accompanied by copies of the applications for such permits or licenses;
- (10) Maximum size of any material used for any signs or banners;
- (11) A site plan identifying the location of all structures and activities planned for the special

event. If outdoor cooking is proposed, the location, type of appliance and type of fuel, shall also be identified;

(12) The number and location of portable sanitation facilities, garbage and recycling services, and other equipment and services proposed for participants, if applicable;

(13) A description of arrangements that have been made for first aid, or emergency medical services, or both, if applicable;

(14) A description of arrangements that have been made for security, including the name and telephone number of the lead contact person for the security contractor;

(15) Insurance information and documentation, if required;

(16) An application fee and deposit, if any, as prescribed by resolution adopted by the city council;

(17) A parking plan that is designed to minimize negative impacts of the event parking on adjacent properties. Negative impacts include, but are not limited to, illegal parking, increased traffic congestion, and event parking that precludes parking for neighboring land uses. If the city finds that significant negative impacts are likely to occur due to the location, size and nature of the event and the availability of parking, an adequate parking plan may be required to include, but not be limited to, the following:

(A) Proof that adjacent property owners were notified of event;

(B) Proof that the adjacent property owners whose property is proposed for event parking have granted permission for event attendees to park on their property;

(C) Adequate parking attendants;

(D) Adequate disabled parking;

(E) Adequate publicity and signage to direct event attendees to available parking;

(F) Other efforts to provide shuttle services to and from the event site, and/or to provide information on alternative transportation such as carpooling, BART, and AC Transit.

(18) Such other information, in conformity with this chapter, as the city manager may reasonably require.

(d) Any failure to submit the information required in this section and as deemed necessary by the special event manager, at least 10 business days before the start of a class I or II event and at least 15 business days before the start of a class III, IV, or V event, will subject the applicant to a late fee, in an

amount set by resolution of the city council. (Ord. 2-2013 § 1, 1-15-13. 1990 Code § 3-7102.)

#### **12.25.040 Late applications.**

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(a) Any application received after the deadlines established in Section [12.25.030](#) is a late application and is subject to a late fee, in an amount set by resolution of the city council. The city manager shall not accept late applications unless the manager finds that:

- (1) The proposed special event is in response to an occurrence whose timing did not reasonably allow the applicant to file a timely application; and
- (2) The imposition of the time limitations would place an unreasonable restriction on the free speech rights of the applicant.

(b) When the city manager finds both of the above conditions to exist, the manager shall accept the application and process it in accordance with this chapter unless it does not meet the criteria set forth in Section [12.25.030](#), or there is insufficient time for the city to make the necessary preparations for traffic control or other public safety matters prior to the proposed date and time of the special event. (Ord. 2-2013 § 1, 1-15-13. 1990 Code § 3-7103.)

#### **12.25.050 Permits – Standards for issuance or denial – Notification.**

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(a) The city manager shall issue a permit for a special event unless he or she determines that one or more of the following conditions exist:

- (1) The application is incomplete for failure to provide the information required by Section [12.25.030](#);
- (2) The applicant has not tendered the required application fee, deposit, or insurance certificate and endorsement(s), unless such tender has been waived as set forth in this chapter;
- (3) The information contained in the application, including supplemental information provided if any, is found to be false in any material respect, the purpose of the event is contrary to law, and/or the applicant has failed to meet the city requirements for a permit;
- (4) A special event permit has been issued and/or a prior application for a special event has been received for an event to be held at the same time and place;
- (5) The special event will unduly interfere with vehicular ingress to, egress from, or travel on a freeway, state designated highway, or major arterial collector street of the city;
- (6) The special event will unreasonably interfere with fire or police protection, including presenting a substantial traffic or safety hazard;
- (7) Event sizes or durations will require diversion of so great an amount of city safety services, it

would divert an undue amount of resources from other city needs, particularly of safety services to other areas of the city;

(8) The security arrangements that have been made are inadequate;

(9) One or more of the applicants or persons whose name is shown on the application was also named on an application for a special event in Fremont that resulted in a violation of this chapter within the 12 months preceding the current application;

(10) The special event is deemed to have adverse impacts to a residential area;

(11) If the special event is proposed to be held on public property, the proposed special event would conflict with a previously scheduled and planned event or activity organized by the city for the same time and place as the proposed special event;

(12) The applicant, or person named in the application, or the organization on whose behalf the application is submitted has, on prior occasions, damaged city property and has not paid in full for such damages, or has other outstanding and unpaid debts to the city;

(13) The applicant is legally incompetent to contract or to sue and be sued;

(14) The applicant fails or refuses to comply with any permitting requirements or conditions of approval.

(b) The applicant shall be notified in writing of the action by the city manager with respect to the application as early as possible but no less than five working days prior to the date of the proposed special event, unless the application was made late, in which case notification shall be given as soon as reasonably possible and by any reasonable means.

(c) Notwithstanding any provisions of this chapter, should the city manager determine that prior special events organized, sponsored or conducted by the applicant or persons whose name is shown on the application have resulted in damages to property, unpaid debts or late payments, complaints from a substantial number of area residents or businesses about the impact of prior events, or unreasonable risks to public safety, the city manager may require, as a condition of approval, that the applicant engage a professional event organizer to organize the special event.

(d) Nothing herein authorizes the denial of a special event permit because of the need to protect participants from the conduct of others, if reasonable permit conditions can be imposed to allow adequate protection with the number of police officers available to police the special event.

(e) If the permit is denied, or approved with conditions, the written notice shall set forth reasons explaining the denial or the imposition of conditions.

- (f) If a permit is denied pursuant to the criteria set forth in this chapter because the proposed time or assembly and dispersal sites are unacceptable, the denial shall contain a statement of alternative acceptable times and sites.
- (g) The city makes the final determination about which “class” an event falls into and whether or not city services are required. (Ord. 2-2013 § 1, 1-15-13. 1990 Code § 3-7104.)

#### **12.25.060 Appeals.**

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An applicant may appeal the denial of an application or permit conditions made pursuant to this chapter by a designee of the city manager to the city manager within three working days of receiving the notice. The city manager shall act upon said appeal promptly, but in no event later than the date and time of the proposed special event. If the decision to deny the special event permit was made by the city manager, that decision shall be final. (Ord. 2-2013 § 1, 1-15-13. 1990 Code § 3-7105.)

#### **12.25.070 Special event permit – Content and possession – Rules and regulations.**

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(a) A special event permit shall contain the information given in the application and shall impose reasonable time, place and manner restrictions to ensure that the special event will not pose a traffic or safety hazard or unreasonably interfere with fire or police protection services. The conditions of any permit shall be in conformity with the requirements of this chapter and shall provide only for such modification of the proposed special event as is necessary to achieve compliance with this chapter. Such conditions may include, but are not limited to, requiring the applicant to:

- (1) Maintain a 20-foot-wide unobstructed emergency access lane at all times;
- (2) Provide first aid stations and teams within a closed-off area to provide emergency medical aid to participants;
- (3) Provide portable sanitation facilities, garbage and recycling services, and other equipment and services necessary to the public health and safety;
- (4) Provide barricades to close off streets or other areas;
- (5) Provide sufficient signs and directional arrows to divert traffic and arrange for AC Transit and other public transit detours, subject to the approval of the city engineer or designee;
- (6) Provide monitors for crowd control and security and establish a liaison with the police department concerning security;
- (7) Provide proof of advance notification to the affected residents and business persons throughout the surrounding areas of any street closure associated with the special event;
- (8) Clean all debris and litter from the park, parking lot, street and/or sidewalk areas affected by the special event within four hours after the conclusion of the special event;

- (9) If alcoholic beverages are to be sold at the event, obtain the appropriate license from the State Department of Alcoholic Beverage Control, follow responsible beverage service practices and provide security adequate to maintain order, as determined by the chief of police or designee.
- (b) Permittees shall carry the special event permit during the special event and shall show it, upon demand, to any city employee.
- (c) The city manager may require, as a condition of the special event permit, that special events may be monitored by city staff; provided, that this condition is not imposed based on the content of speech occurring at the proposed special event.
- (d) Permittees may not limit free distribution of literature at a special event held on public property by members of the public who have no formal or direct relationship with the permittee.
- (e) Permittees shall ensure that accessibility for persons with disabilities is not impaired by the special event if the special event occurs on public property. (Ord. 2-2013 § 1, 1-15-13. 1990 Code § 3-7106.)

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**12.25.080 Animals – Definition – Restrictions – Exclusions – Impound procedures.**

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- (a) “Animal” shall be as defined in Section 6.05.010(a).
- (b) It shall be unlawful for any person to bring an animal to a special event, regardless of whether the animal is leashed or otherwise restrained, except as may be allowed herein.
- (c) Animals expressly excluded from the provisions of this section are:
  - (1) Animals which are part of a police canine unit or mounted law enforcement unit.
  - (2) A “service animal” as defined in the Americans with Disabilities Act or “guide dogs,” “signal dogs” or “service dogs” as defined pursuant to California law.
  - (3) Animals, as specified in the special event permit, which are: (A) part of an entertainment act; (B) approved participants in a public parade; or (C) are used for transportation of vehicles.
  - (4) Animals allowed pursuant to the special events permit.
- (d) In addition to being subject to a fine for violating this section, any member of the police department or other designated law enforcement agency working at the special event is authorized to impound the animal. Such impoundment shall be subject to procedures set forth in Chapter 6.05, Article IV. (Ord. 2-2013 § 1, 1-15-13. 1990 Code § 3-7107.)

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**12.25.090 Revocation of permit.**

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- (a) If the special event is to be held on public property, the city manager may revoke the special event

permit at any time the city manager determines that as a result of weather, conduct of the special event would unreasonably damage the public property for which it is proposed.

(b) The city manager may revoke a permit at any time if he or she determines that any provision of this chapter or any condition of the permit has not been met or is being violated. A decision by the city manager to revoke a permit is final. (Ord. 2-2013 § 1, 1-15-13. 1990 Code § 3-7108.)

#### **12.25.100 Indemnification.**

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(a) The permittee shall indemnify and hold harmless the city, its officers, agents, employees and volunteers from any and all claims, causes of action, penalties, losses, expenses (including reasonable attorneys' fees) and any other liability for injuries or damage to persons or property resulting from the special event which were caused by the omissions or authorized acts of the permittee's officers, agents or employees.

(b) If the city incurs any costs as a result of the applicant's failure to comply with any provisions of this chapter, or if city property is destroyed or damaged by reason of a special event, the permittee shall reimburse the city for its actual costs, including the actual replacement or repair cost of the destroyed property. The city may retain any deposit or portion thereof as full or partial reimbursement for any such damage. (Ord. 2-2013 § 1, 1-15-13. 1990 Code § 3-7109.)

#### **12.25.110 Insurance.**

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(a) The applicant may be required to obtain general liability insurance for the duration of the event, which names the city, its officers, agents, employees and volunteers as additional insureds. The risk manager, subject to the limitations listed below, shall have the discretion to determine the required amount of insurance upon consideration of all risk factors, including but not limited to the size of the event, activities planned for the event, the event's history, the experience of the event management team, and the preparation and steps taken to ensure attendee safety. An applicant may appeal the risk manager's determination of the insurance coverage amount to the city manager by submitting a written appeal to the city manager within five days of the risk manager's decision. The decision of the city manager shall be final.

<b>Class</b>	<b>Insurance Required</b>
I	\$1 – 2 million
II	\$1 – 2 million
III	\$1 – 7 million
IV	\$1 – 7 million
V	\$1 – 7 million

(b) No applicant shall be required to comply with the insurance requirements of this section if the activity proposed for the special event is protected by the First Amendment to the United States

Constitution and the applicant produces evidence that complying with the insurance provision is impossible or so financially burdensome that it would preclude the proposed special event from occurring.

(c) The amount of insurance required shall not be based on the existence or content of any expression involved in the event, or on the expected reactions of observers.

(d) If insurance is required pursuant to this section, a certificate of insurance and a separate endorsement naming the city as an additional insured shall be provided to the city, and must be approved as to form and sufficiency by the city, no later than five working days before the event. If the applicant is unable to obtain insurance or does not provide the city with the certificate of insurance or endorsement, the city manager may obtain such insurance, including the additional insured endorsement, on behalf of the permit applicant and charge the permit applicant for the cost. (Ord. 2-2013 § 1, 1-15-13. 1990 Code § 3-7110.)

#### **12.25.120 Fees.**

(a) The city council may establish by resolution the fees that shall be charged for permits issued under this chapter. Fees shall include an application fee as well as payment for the cost of city services required to be provided to any special event.

(b) If an applicant is required to pay a fee for the costs of city services provided to the special event, a deposit shall be made prior to issuance of the special event permit based upon an estimate of the cost of city services provided to the applicant by the city manager and based upon the schedule set forth below. No deposit shall be required if the cost of the city services is less than \$5,000.

<b>Estimated Cost of City Services Provided</b>	<b>Percentage of Estimated Costs Deposit</b>
\$5,000.00 to 9,999.99	30%
\$10,000.00 to 14,999.99	40%
\$15,000.00 to 19,199.99	50%
\$20,000.00 or more	60%

(c) The deposit for the estimated cost of city services as required by this section may be reduced or waived by the city manager if the manager finds that the applicant has a credit rating supporting such a

waiver or reduction. Such finding shall be based upon a determination that none of the conditions set forth in subsection (d) of this section have occurred at past events organized, sponsored or conducted by the applicant or person(s) named in the application and that at least three of the following are the case:

- (1) The applicant has sufficient cash flow to cover the total estimated costs of the special event, plus any ongoing organizational expenses;
- (2) The applicant has a consistent history of paying bills in a timely manner;
- (3) The applicant has no liens or fines by any local, state or federal agency;
- (4) The applicant has a credit rating of "good" by an established and widely recognized third party rating system such as Dunn and Bradstreet or a similar rating by a similar agency or organization.

(d) Notwithstanding any of the provisions of this chapter, should the city manager determine that prior special events organized, sponsored or conducted by the applicant or person named in the application have resulted in damages to property, unreasonable risks to public safety, or unpaid debts or late payments, the city manager may require, prior to approval of the special event permit, that the applicant pay the full amount of the estimated costs of city services.

(e) If a permittee is unable to hold or conduct a special event because of weather or due to some other cause not within the permittee's control, and the permittee submits a written request for the refund of fees to the city manager within 10 days after the date the event was to have been conducted, the city manager may authorize the refund of any fees that are not necessary to reimburse the city's expenses of preparation for the special event, except the nonrefundable application fee.

(f) No applicant shall be required to pay the application fee or the fee for the costs of city services as set forth in this section if the activity proposed for the special event is protected by the First Amendment to the United States Constitution and the applicant produces evidence that complying with the fee provision is impossible or so financially burdensome that it would preclude the proposed special event from occurring. (Ord. 2-2013 § 1, 1-15-13. 1990 Code § 3-7111.)

#### **12.25.130 Violation – Penalty.**

(a) Violation of this chapter is a misdemeanor punishable as set forth in Chapter 1.15, but may be charged, at the discretion of the prosecutor, as an infraction or under Chapter 1.20, Administrative Remedies.

(b) Payments for the costs of city services required for the special event shall, if not paid within 30 days of the special event, constitute a debt to the city and shall be collectable by any remedy under law. Failure to submit full and complete payment for the costs of city services within 30 days of the special event is a violation of this chapter punishable as set forth herein and each day of late payment is a

separate violation.

(c) No penalty may be imposed under this section based on the behavior of persons not attending the event or based on the reactions of observers or bystanders to any communicative aspect of the event. (Ord. 2-2013 § 1, 1-15-13. 1990 Code § 3-7112.)